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Candace Havens
Director

MEMORANDUM

Public Hearing Date:	November 15, 2011
Land Use Action Date:	November 22, 2011
Board of Aldermen Action Date:	December 5, 2011
90-Day Expiration Date:	December 5, 2011

DATE: November 10, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner Current Planning ET
Alexandra Ananth, Senior Planner

SUBJECT: Petition **#283-11**, of VLADIMIR KHAYNOVSKY, for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE by enclosing an existing deck to create a bedroom increasing the Floor Area Ratio from .70 to .73 at **66 CRAGMORE ROAD**, Ward 5, Newton Upper Falls, on land known as SBL 54, 48, 18, containing approximately 12,580 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-15(u)(2) of the City of Newton Rev Zoning Ord, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The subject property is located at 66 Cragmore Road and consists of a 12,580 square foot lot improved with a single-family residence. In 2005 the petitioner completed an expansion of the house “by right,” under the dimensional standards in place at the time. The petitioner is now proposing to expand the house further by enclosing a 391 square foot deck to create a new bedroom. The proposed expansion will increase the already nonconforming FAR from .7 to .73 where .37 is allowed, requiring a special permit. Although the existing and proposed FAR is high, the Planning Department notes that this is partially due to the fact that the basement is considered a story. The proposed addition also requires a special permit for the extension of a nonconforming three-story structure due to the classification of the basement as a story. The proposed new bedroom is on what appears to be the second floor of the residence when viewed from the street (though it is technically located on the third floor). Although the expansion is located only .4 feet from the rear lot line the residence abuts an aqueduct where there is no required setback. As the nearest residence is located over 100 feet from the existing residence and the proposed project does not constitute an expansion to the footprint, the Planning Department believes the proposed addition will not negatively affect abutters.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this petition, the Board should consider:

- Whether the proposed extension of a nonconforming structure with regard to the number of stories and FAR will be substantially more detrimental to the neighborhood than the existing structure.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The house is located in a Single Residence 2 zone and is completely surrounded by single-family uses.

B. Site

The site consists of a 12,580 triangular shaped lot that abuts an aqueduct at its rear property line.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The lot is used for a single-family residence and will continue to be used in this manner.

B. Building and Site Design

The petitioner is proposing to enclose an existing third floor deck located on the northwest corner of the house as a new bedroom. This will result in an increase of 391 square feet of gross floor area and an increase in the nonconforming FAR.

Although the new bedroom is located on what is technically the third story of the residence (because the basement is considered a story), it is located on the rear corner of the house and will be minimally visible to abutters. Due to the location of the addition and its relationship to abutters it does not appear that landscape screening needs to be added. Proposed materials will match existing.



C. Parking and Circulation

The proposed project will have no impact on parking or circulation.

IV. TECHNICAL REVIEW

A. Technical Considerations.

The Zoning Review Memorandum, dated October 4, 2011 (**SEE ATTACHMENT "A"**), provides an analysis of the proposal with regard to zoning. The existing house is a lawfully nonconforming structure with regard to number of stories and FAR. A special permit is required to increase the already nonconforming FAR from .7 to .73 where .37 is allowed. A special permit is also required to extend a structure that is nonconforming with regard to the number of stories.

B. Other Reviews.

No other reviews are required for the proposed project.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum the petitioners are seeking the following relief:

- Section 30-15(u)(2), to allow for an increase in FAR from .70 to .73 where .37 is allowed
- Section 30-21(b), to allow for an expansion of a nonconforming structure with respect to the number of stories
- Section 30-23, for site plan approval
- Section 30-24, for approval of special permit

VI. PETITIONERS' RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

ATTACHMENT A:	ZONING REVIEW MEMORANDUM DATED OCTOBER 4, 2011
ATTACHMENT B:	ZONING MAP
ATTACHMENT C:	LAND USE MAP
ATTACHMENT D:	VISUAL
ATTACHMENT E:	DRAFT BOARD ORDER



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Attachment "A"

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ZONING REVIEW MEMORANDUM

Date: October 4, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Vladimir Khaynovsky, applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow an increase in FAR

Applicant: Vladimir Khaynovsky	
Site: 66 Cragmore Road	SBL: 54048 0018
Zoning: SR2	Lot Area: 12,580 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling

Background:

The property at 66 Cragmore Road consists of a 12,580 square foot lot occupied by a single-family dwelling. In 2005, the applicant completed a large expansion of the then existing house which was done by right under the FAR rules at the time. The applicant now proposes to enclose an existing roof deck to create a new bedroom.

The following review is based on plans and materials submitted to date as noted below.

- Architectural floor plans, existing and proposed, by Architects 2, unsigned, unstamped, dated 7/20/11
- Side and rear elevations, existing and proposed, by Architects 2, unsigned, unstamped, dated 7/20/11
- FAR Worksheet for existing and proposed, prepared by Architects 2, unsigned, unstamped, and undated
- Site plan, signed and stamped by Bruce Bradford, Surveyor, dated 12/28/04
- Revised site plan, signed and stamped by Bruce Bradford, Surveyor, dated 8/30/11

ADMINISTRATIVE DETERMINATIONS:

1. The property is in the SR2 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre- 1953 lot (see chart below).

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	12,580 square feet	No change
Frontage	80 feet	230 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 0 feet*	25.1 feet 8.8 feet .4 feet	No change No change No change
FAR	.37**	.70	.73
Building Height	36 feet	29.4 feet	No change
Maximum Stories	2.5	3	No change
Max. Lot Coverage	30%	27.8%	No change
Min. Open Space	50%	65%	No change

* Rear property line is a boundary with the land owned by an aqueduct and therefore has no setback requirement

** Under the FAR rules to go into effect on October 15, 2011, including the .02 bonus for an addition to an existing structure on an old lot which stays within new-lot setbacks.

- In 2005, a large by-right addition was constructed. Because the then existing structure was less than 50% demolished, the new structure was not subject to FAR standards at the time. At the time, the FAR of the property would have been approximately .49.
- The site plan that was provided for the large addition in 2004 shows a calculation of an average grade plane of 147 feet and a lower level that is exactly one half below the calculated grade plane, which met the definition of a basement. However, since that time, the Board of Aldermen adopted Ordinance No. Z-90, which required the calculation of average grade plane to be done using the length-weighted-mean method. A revised site plan using the current calculation method was submitted and shows an average grade plane of 146.5. Therefore, the basement now qualifies as a first floor. This is reflected in the number of stories and the FAR in the table above.
- The applicant proposes to enclose an existing open deck to create a new bedroom. This will result in an increase of 391 square feet of gross floor area and an increase in the nonconforming FAR from .70 to .73. The applicant must obtain a special permit from the Board of Aldermen, per Section 30-15(u)(2) to construct this addition as proposed.
- The proposed addition is also an extension of a nonconforming three story structure. To construct the addition as proposed, the applicant must obtain a special permit from the Board of Aldermen per §30-21(b).
- See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Density</i>	<i>Action Required</i>
§30-15(u)(2)	Allow an increase in FAR from .70 to .73 where .37 is allowed.	S.P. per §30-24
§30-21(b)	Allow an extension of a structure which is nonconforming with regard to the number of stories	S.P. per §30-24













Zoning Map 66 Cragmore Rd.

*City of Newton,
Massachusetts*

Legend

Contour Lines

Contour Lines

-  Two Foot Contour
-  Index (10 Foot) Contour
-  Depression Contour
-  Depression - Index Contour
-  Bridge Abutment
-  Culvert
-  Wall
-  Single Residence 2
-  Multi-Residence 1
-  Public Use
-  Building Outlines
-  Property Boundaries



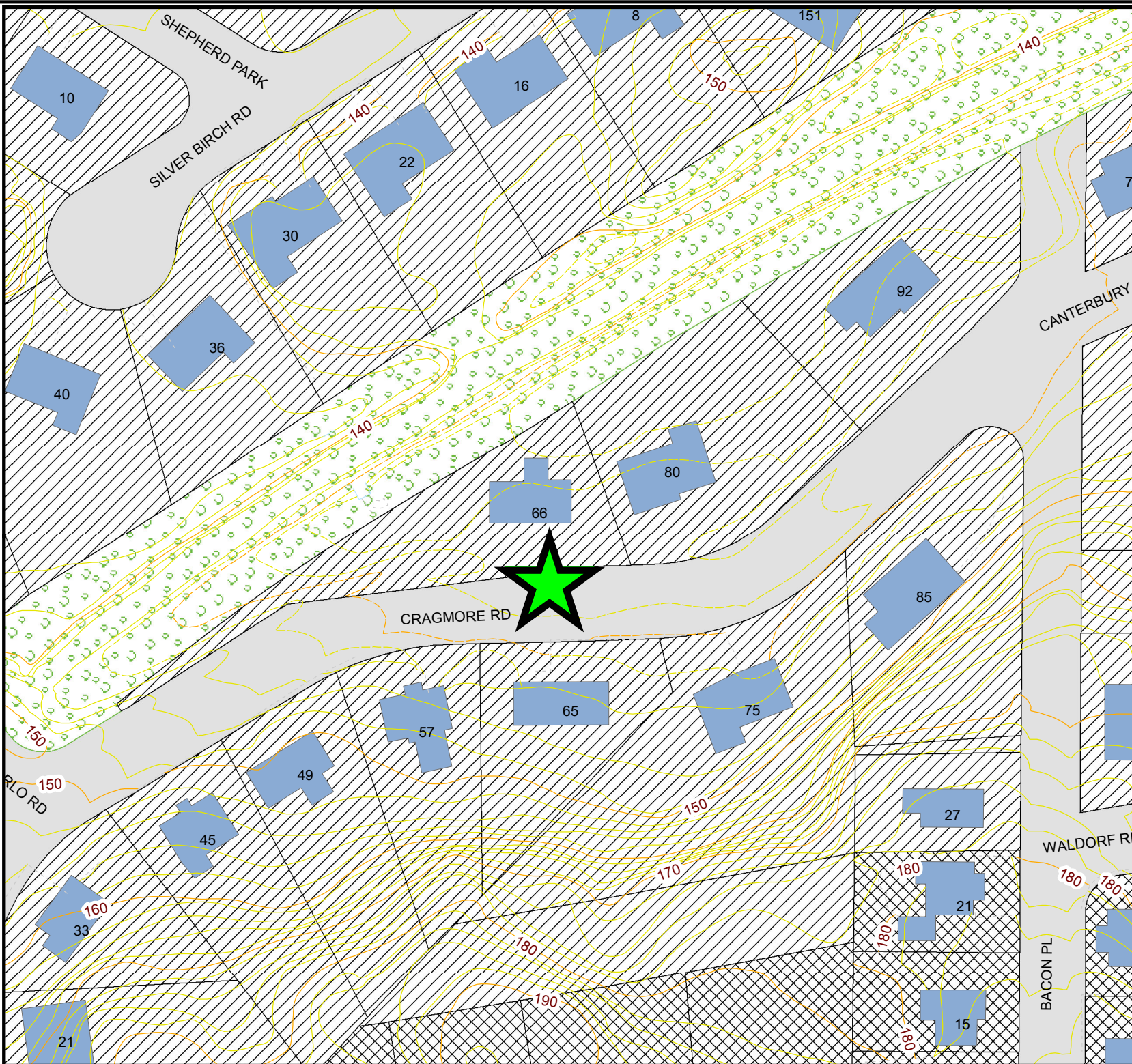
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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Gr

0 12.5 25 50 75 100

Map Date: November 07, 2011

Attachment "B"















Land Use Map 66 Cragmore Rd.

*City of Newton,
Massachusetts*

Legend

Contour Lines

Contour Lines

-  Two Foot Contour
-  Index (10 Foot) Contour
-  Depression Contour
-  Depression - Index Contour
-  Bridge Abutment
-  Culvert
-  Wall
-  Single Family Residential
-  Multifamily Residential
-  Open Space
-  Building Outlines
-  Property Boundaries



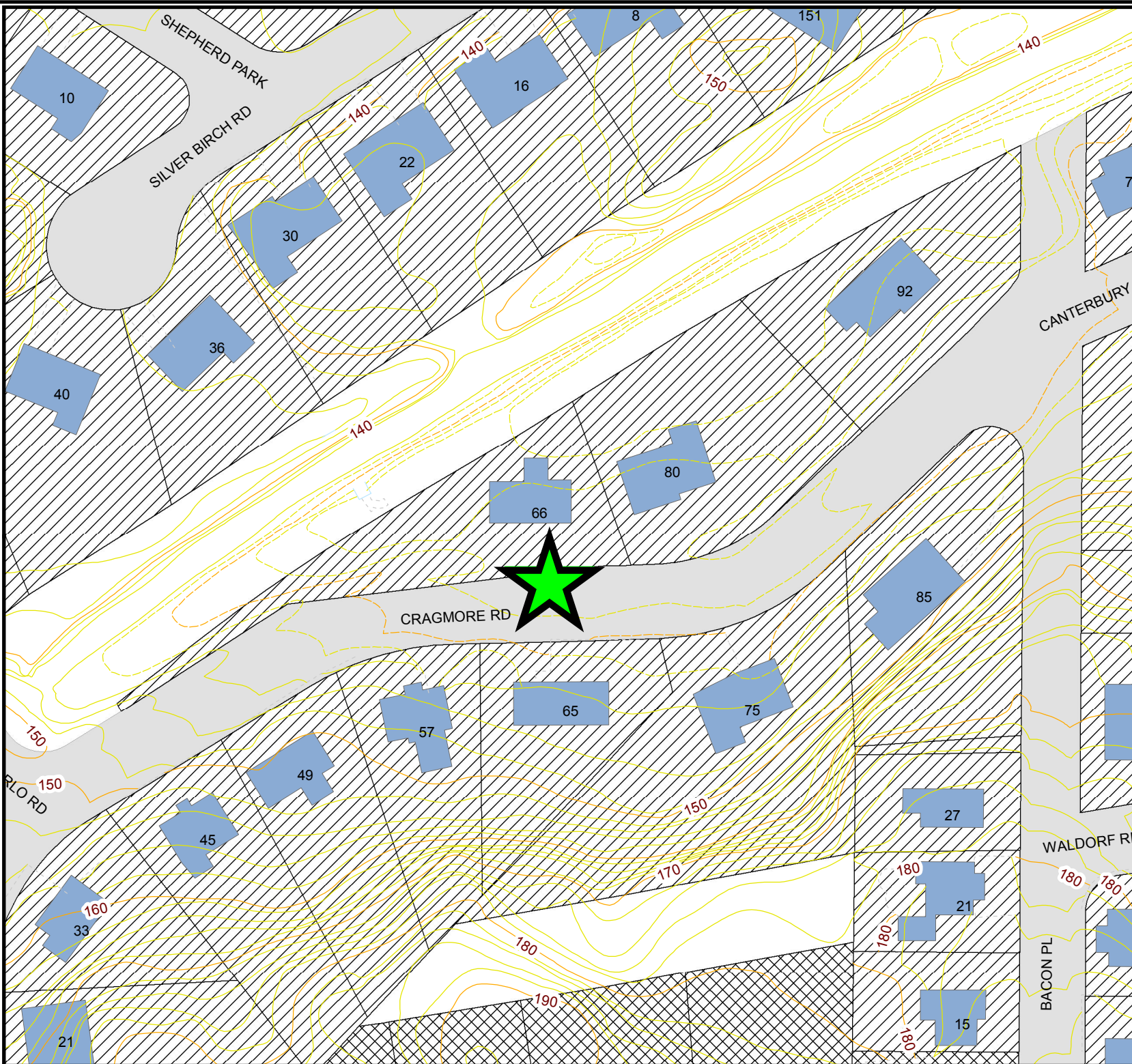
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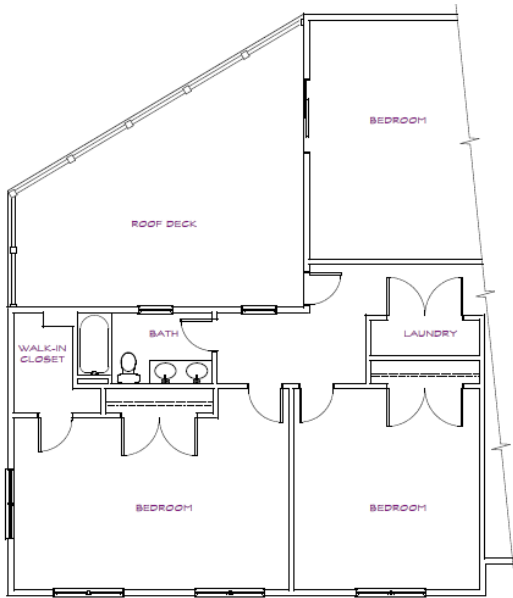
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CITY OF NEWTON, MASSACHUSETTS
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GIS Administrator - Douglas G. Gagnier

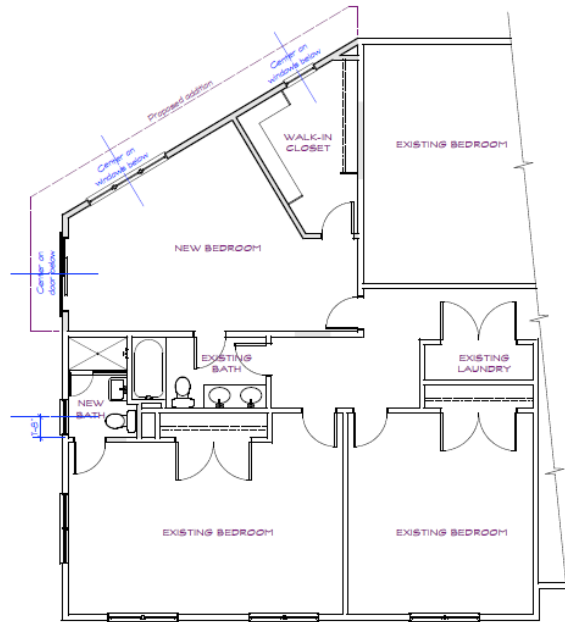
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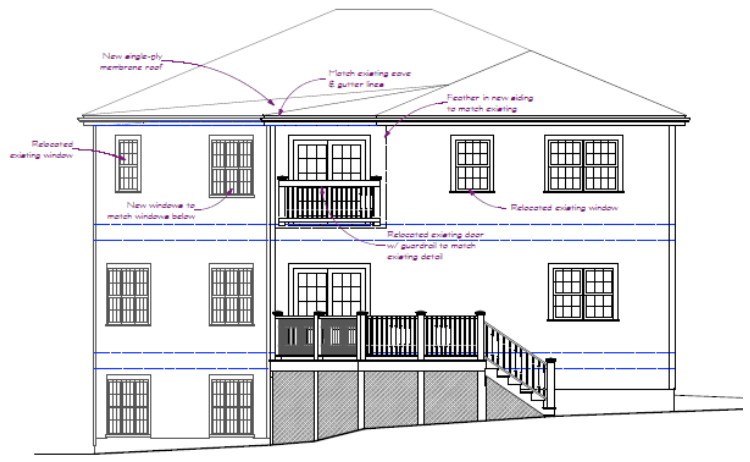
Existing Third Floor Plan



Proposed Third Floor Plan



Photo of Existing



Proposed Left Side Elevation

DRAFT
#283-11

CITY OF NEWTON
IN BOARD OF ALDERMEN
December 5, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN to allow an increase in FAR and an extension of a nonconforming structure, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. The proposed extension of a nonconforming structure will not be substantially more detrimental to the neighborhood than the existing structure for the following reasons:
 - a. The structure is nonconforming with regard to the number of stories as the basement qualifies as a first floor.
 - b. The proposed addition is located on the rear corner of the house and will be minimally visible to abutters and the property complies with dimensional standards for lot coverage and open space.
 - c. The proposed addition has been designed in keeping with the architecture and roofline of the existing house and complies with all setback requirements.

PETITION NUMBER:	#283-11
PETITIONER:	Vladimir Khaynovsky
LOCATION:	66 Cragmore Road, Section 54, Block 48, Lot 18 containing approximately 12,580 sq. ft. of land
OWNER:	Vladimir Khaynovsky
ADDRESS OF OWNER:	66 Cragmore Road, Newton, MA 02464
TO BE USED FOR:	Enclosing deck to create new bedroom
CONSTRUCTION:	Wood frame, exterior to match existing

EXPLANATORY NOTES: §30-15(u) to increase FAR from .7 to .73 where .37 is allowed; §30-21(b) to extend a nonconforming structure with regard to the number of stories; §30-23 for site plan approval; and §30-24(d) for special permit approval

ZONING: Single Residence 2 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with
 - Site Plan, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated 8/30/11
 - Architectural floor plans, existing and proposed, by Architects 2, unsigned, unstamped, dated 7/20/11
 - Side and rear elevations, existing and proposed, by Architects 2, unsigned, unstamped, dated 7/20/11
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. recorded a certified copy of this Board Order for the approved special permit/site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. filed a copy of such recorded Board Order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect certifying compliance with Condition #1.